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PATENT

Attorney Docket No. 03495.0174-02

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
Sylvie ROUX et al.) Group Art Unit: 1632
Application No.: 10/662,808) Examiner: Shin Lin CHEN
Filed: September 16, 2003)
For: /N VIVO MODULATION OF) Confirmation No.: 2497
NEURONAL TRANSPORT)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. § 1.97(c)

Pursuant to 37 C.F.R. §§ 1.56 and 1.97(c), Applicant brings to the attention of the Examiner the documents on the attached listing. This Information Disclosure Statement is being filed after the events recited in Section 1.97(b) but, to the undersigned's knowledge, before the mailing date of either a Final action, Quayle action, or a Notice of Allowance. Under the provisions of 37 C.F.R. § 1.97(c), this Information Disclosure is accompanied by a fee of \$180.00 as specified by Section 1.17(p).

Copies of the listed foreign and non-patent literature documents are attached.

Copies of the U.S. patents and patent application publications are not enclosed. Copies of the co-pending applications and their office actions are not enclosed as they are available on the Image File Wrapper of PAIR.

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The United States Court of Appeals for the Federal Circuit held in *Dayco Products, Inc. v. Total Containment, Inc.*, 329 F.3d 1358, 66 U.S.P.Q.2d 1801 (Fed. Cir.

2003), that an "adverse decision" by another examiner may meet the materiality standard under the amended Rule 56, and thus, Applicants should disclose prior rejections of "substantially similar claim[s]" to the Office. See also M.P.E.P. § 2001.06(b). Accordingly, although Applicant is not representing that the Office Actions in the co-pending applications are material to the present application and are not admitting that any of the other claims are substantially similar, out of an abundance of caution, Applicant has listed the substantive Office Actions in co-pending applications on the attached form.

Applicant respectfully requests that the Examiner consider the listed documents and indicate that they were considered by making appropriate notations on the attached form.

With respect to the non-English language documents, Applicants submit the following remarks:

1. **ROUX et al., "Utilisation du fragment C-terminal de la neurotoxine tétanique pour visualiser et analyser des connexions neuronales et pour le transfert d'une activité biologique associée", Journal De La Société de Biologie, vol. 199, pgs. 35-44 (2005)** - An English language abstract of this document appears on the first page of this document.

This submission does not represent that a search has been made or that no better art exists and does not constitute an admission that each or all of the listed documents are material or constitute "prior art." If the Examiner applies any of the documents as prior art against any claims in the application and Applicant determines that the cited documents do not constitute "prior art" under United States law, Applicant

reserves the right to present to the office the relevant facts and law regarding the appropriate status of such documents.

Applicant further reserves the right to take appropriate action to establish the patentability of the disclosed invention over the listed documents, should one or more of the documents be applied against the claims of the present application.

If there is any fee due in connection with the filing of this Statement, please charge the fee to Deposit Account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: November 16, 2009

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